

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KEVIN WILLIAMS,

Plaintiff

v.

**PENNSYLVANIA DEPARTMENT
OF CORRECTIONS, *et al.*,**

Defendants

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CIVIL NO. 1:15-CV-0975

(Judge Rambo)

(Magistrate Judge Schwab)

MEMORANDUM

Background

On May 19, 2015, Plaintiff Kevin Williams filed an action against the Pennsylvania Department of Corrections, and some of its employees, along with a request for leave to proceed *in forma pauperis*. By order of the magistrate judge dated August 4, 2015 (Doc. 13), the magistrate judge denied Williams the right to proceed *in forma pauperis* pursuant to the Three Strikes rule, 28 U.S.C. 1915(g) which states:

(g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

Williams has filed objections to that order, alleging that he has only filed one previous case, i.e. 3:13-CV-0096,. He further argues that he is in “imminent danger of serious physical injury (Doc. 14).

Discussion

A review of the records accessible to the court shows the following civil rights cases have been filed by Williams pursuant to 42 U.S.C. § 1983:

1) Number 1:88-CV-01860 (M.D. Pa.), filed November 14, 1988, closed February 28, 1989 for failure to prosecute;

2) Number 1:00-CV-01146 (M.D. Pa.), filed August 27, 2000, transferred to the Eastern District of Pennsylvania and closed July 3, 2000 pursuant to 28 U.S.C. § 1915(e);

3) Number 1:01-CV-02312 (M.D. Pa.), filed February 5, 2001. This case went to trial, however, at the end of the presentation of Plaintiff's case, judgment was rendered against the remaining defendants. Other defendants were granted judgment before trial. Case terminated November 4, 2003;

4) Number 2:00-CV-03898 (E.D. Pa.), filed August 2, 2000, closed on August 7, 2000 pursuant to 28 U.S.C. § 1915(e);

5) Number 3:90-CV-02110 (M.D. Pa.), filed December 1, 1990, dismissed as frivolous on April 1, 1993;

6) Number 1:05-CV-00774 (M.D. Pa.), filed April 18, 2005, dismissed as frivolous on July 17, 2006;

7) Number 3:13-CV-00096 (W.D. Pa.), filed May 1, 2013, dismissed on January 14, 2014; affirmed by the Third Circuit Court of Appeals on May 7, 2014.

On the latter case, Williams argues that the Western District judge, while dismissing with prejudice those defendants properly before him, granted Williams leave to file a complaint in the Middle District of Pennsylvania. Specifically, Judge Gibson's order stated in part, "It is not in the interest of justice, however, to transfer an inadequate complaint, when plaintiff can refile the complaint in the Middle District of Pennsylvania after he fixes the defects in his complaint." (*See* 3:13-00096 (W.D.

Pa., 01/14/2014 order.) The order was affirmed on appeal to the Third Circuit Court of Appeals. (*See* No. 14-1261, dated May 1, 2014.)

Williams further alleges in his objections (Doc. 14) that he is in imminent danger. He alleges that several threats were lodged against Plaintiff and he was put in solitary confinement. Williams' labeling and conclusory opinions are insufficient. Williams does not set forth the nature, type of threats, who made them, and over what period of time these alleged threats occurred. In light of Williams' past history of unfounded claims, and the length of time he has been in prison without physical harm, the court finds his credibility is lacking as to his claim of "imminent danger."

Conclusion

For the reasons set forth above, the order of Magistrate Judge Schwab of August 4, 2015 (Doc. 13), will be affirmed. An appropriate order will be issued.

s/Sylvia H. Rambo
United States District Judge

Dated: August 17, 2015.